

Notice of Allowability

Application No.

10/033,424

Examiner

Suryaprabha Chunduru

Applicant(s)

VISCHER, PETER

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/4/04.
2. ☒ The allowed claim(s) is/are 1-4.
3. ☒ The drawings filed on 27 December 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

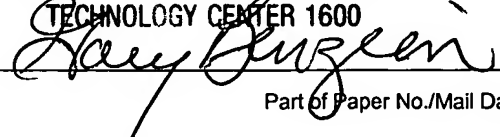
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

GARY BENZION, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600



DETAILED ACTION

1. Applicants' response to the office action and amendment filed on October 4, 2004 have been entered and considered.
2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Bastian on January 7, 2005.

Please amend the claims as follows:

Please delete "substantially" in line 2 of step (c) in claim 1.

Thus the amended claim 1 should read as follows:

1. A method for processing a nucleic acid sample contained in a liquid, said method comprising
 - (a) introducing said liquid into a chamber of a cartridge which contains a chip shaped carrier, an active surface of which carries an array of oligonucleotides, said chamber having a narrow interior and including a channel comprised between two inner surfaces of said chamber,
 - (b) positioning said cartridge in a cartridge holder, said positioning being effected before or after introduction of said liquid into said chamber, and
 - (c) oscillating said cartridge holder and thereby said cartridge about an axis of rotation which is perpendicular to a vertical plane, thereby moving said cartridge back and forth between a first angular position and a second angular position which lie on opposite sides of an

intermediate angular position at which said active surface of said chip shaped carrier is substantially at a lowest part of its motion path caused by said oscillating of said cartridge, in order to cause relative motion of the liquid contained in said channel with respect to said active surface of said chip shaped carrier.

3. The following is an examiner's statement of reasons for allowance:

Claims 1-4 are allowed.

The present invention is drawn to a method for processing a nucleic acid sample contained in a liquid using an angular oscillating cartridge, that is positioned on an axis of rotation which is perpendicular to a vertical plane, moving the cartridge back and forth in an angular motion, facilitating the contact of liquid containing said sample with the active surface of the chip. The closest prior art teach mixing of samples in a complete rotation and did not teach or suggest the angular oscillation which is perpendicular to a vertical axis. Thus the instant invention was not taught or obvious over the closest prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suryaprabha Chunduru whose telephone number is 571-272-0783. The examiner can normally be reached on 8.30A.M. - 4.30P.M, Mon - Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone numbers for the

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organization where this application or proceeding is assigned are 571-273-8300 for regular communications and - for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

^{gpc}
Suryaprabha Chunduru.
January 7, 2005.


GARY BENZION, PH.D.
SUPERVISORY/PATENT EXAMINER
TECHNOLOGY CENTER 1600